

ANNEXURE-I

A

Questionnaires

**QUESTIONNAIRE ON THE RIGHT TO INFORMATION ACT,
2005**

(To be filled by the Information Seeker)

PART- A

(General Information)

1. NAME:

2. AGE:

3. GENDER:

4. ADDRESS:

5. CONTACT NO:

6. E-MAIL ID:

7. EDUCATIONAL QUALIFICATIONS: (Please Tick)

BELOW M.P.	M. P.	UNDER GRADUATE	GRADUATE	POST- GRADUATE

8. OCCUPATION:

PART – B

Srl. No.	Questions		
1	Are you aware of the Right to Information Act, 2005?		
2	What is the source of such information?		
	(a) Voluntary display of information in the Departments		
	(b) Websites		
	(c) Awareness Programmes		
	(d) Media		
	(e) Friends and Family		
3	Are you aware about the procedure involved in filing a request for disclosure of information?		
4	Do the public authorities provide reasonable assistance and cooperation when you enquire about the Act?		
5	Have you anytime filed an application under the Right to Information Act, 2005 to seek information from a Public Authority?		
6	If Yes, then did you receive the information within 30 days?		
7	If No, then were you informed about the reason for such refusal?		
8	Are you aware of the provision of exemptions from disclosure under the Act?		
9	Are you aware of the procedure of accessing “third party information” (confidential information of individuals /public authorities) under the Act?		
10	Are you aware of the penalty provisions against the Public Information Officer for non-compliance of the provisions of the Act?		

11	Are you aware of the provision and procedure of Appeal on refusal of information by public authorities?		
12	Do you think that information from the following institutions/organisations is available under the Act?		
	(a) Judiciary		
	(b) Media		
	(c) NGOs		
	(d) Political Parties		
	(e) Intelligence and Security Organisations		
	(e) Banks		
	(f) Private Sector		
13	Do you fear being victimised for seeking sensitive information and exposing corruption?		
14	Do you think that the RTI Act has been a powerful tool in combating corruption and changing the attitude of the government towards the citizens?		

THANK YOU FOR YOUR PRECIOUS TIME AND COOPERATION

B

**QUESTIONNAIRE ON THE RIGHT TO INFORMATION ACT,
2005**

(To be filled by the Information Provider)

PART- A

(General Information)

1. NAME:

2. AGE:

3. GENDER:

4.ADDRESS:

5. CONTACT NO.

6.E-MAIL ID:

7.OCCUPATION:

8.DEPARTMENT:

9. DESIGNATION:

PART –B

Srl. No.	Questions	Responses	
		Yes	No
1	Do you display the name and designation of the PIOs and FAA in your department?		
2	Do you make such disclosure of information in your Department website?		
3	Do you have adequate infrastructure and resources to ensure compliance with the provisions of the Act?		
4	Do you think thirty days time frame for furnishing information is adequate?		
5	Do you communicate the reasons for denying the information to the applicant seeking information under the Act?		
6	Do you apply the rule of severability while disclosing exempted information?		
7	Do you transfer the application if the information is held by another public authority?		
8	Do you comply with the procedure involved in disclosing “third party information” (confidential information of individuals /public authorities) prescribed under Act?		
9	Have you ever been penalised for not releasing information under the Act?		
10	Do you think that it is an additional burden on the public officials to carry out the duties as Public Information Officers without any remuneration?		
11	Do you think that the Right to Information Act is misused by the citizens?		
12	Have you attended any orientation programme and training sessions organised by the government on the effective implementation of the RTI Act?		

THANK YOU FOR YOUR PRECIOUS TIME AND COOPERATION

ANNEXURE-II

THE RIGHT TO INFORMATION ACT, 2005 No. 22 of 2005

[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement –

- (1) This Act may be called the Right to Information Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

2. Definitions - In this Act, unless the context otherwise requires,—

- (a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—
 - (i) by the Central Government or the Union territory administration, the Central Government;
 - (ii) by the State Government, the State Government;
- (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;
- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
- (e) "competent authority" means—
 - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
 - (ii) the Chief Justice of India in the case of the Supreme Court;
 - (iii) the Chief Justice of the High Court in the case of a High Court;
 - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
 - (v) the administrator appointed under article 239 of the Constitution;
- (f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;
- (g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (h) "public authority" means any authority or body or institution of self government established or constituted—
 - (a) by or under the Constitution;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government, and includes any—
 - (i) body owned, controlled or substantially financed;

- (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;
- (i) "record" includes—
 - (i) any document, manuscript and file;
 - (ii) any microfilm, microfiche and facsimile copy of a document;
 - (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (iv) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to Information and Obligations of Public Authorities

3. Right to Information - Subject to the provisions of this Act, all citizens shall have the right to information.

4. Obligations of public authorities - (1) Every public authority shall—

- a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject

to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

- b) publish within one hundred and twenty days from the enactment of this Act,—
- (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employee
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its function
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed; and thereafter update these publications every year;

- c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
 - d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo motu* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
- (3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.— For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. Designation of Public Information Officers - (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6. Request for Obtaining Information - (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

- (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
- (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

- (i) which is held by another public authority; or
- (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. Disposal of request - (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to subsection (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—

- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under subsection (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;
- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. Exemption from Disclosure of Information (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. 19 of 1923.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred

or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

9. Grounds for rejection to access in certain cases- Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

10. Severability- (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information-

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

11. Third Party Information - (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

The Central Information Commission

12. Constitution of Central Information Commission - (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Central Information Commission shall consist of—

- (a) the Chief Information Commissioner; and
- (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Lok Sabha; and
- (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.— For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who

shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. Term of Office and conditions of Service- (1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment: Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;
- (b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. Removal of Chief Information Commissioner or Information Commissioner-

(1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or

- (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

The State Information Commission

15. Constitution of State Information Commission- (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The State Information Commission shall consist of—

- (a) the State Chief Information Commissioner, and
- (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Legislative Assembly; and
- (iii) a Cabinet Minister to be nominated by the Chief Minister

Explanation—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16. Term of office and conditions of service (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office: Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
- (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. Removal of State Chief Information Commissioner or State Information Commissioner - (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or

- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

Powers and functions of the Information Commissions, Appeal and Penalties

18. Powers and Functions of Commission- (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

- (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in subsection (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
- (b) who has been refused access to any information requested under this Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the 5 of 1908 case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

19. Appeal- (1) Any person who, does not receive a decision within the time specified in subsection (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information

Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20. Penalties- (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or

knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under subsection (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI

Miscellaneous

21. Protection of action taken in good faith - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made there under.

22. Act to have overriding effect - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

23. Bar of jurisdiction of Courts- No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

24. Act not to apply to certain organisations- (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. Monitoring and Reporting- (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,—

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
- (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeal
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;

- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

26. Appropriate Government to prepare programmes - (1) The appropriate Government may, to the extent of availability of financial and other resources,—

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—

(a) the objects of this Act;

(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;

- (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
- (e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of (g) filing an appeal to the Commission;
- (h) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (i) the notices regarding fees to be paid in relation to requests for access to an information; and
- (j) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. Power to make rules by Appropriate Government- (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (b) the fee payable under sub-section (1) of section 6;
- (c) the fee payable under sub-sections (1) and (5) of section 7;
- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and Power to make rules by appropriate Government sub-section (6) of section 16;
- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
- (f) any other matter which is required to be, or may be, prescribed.

28. Power to make rules by competent authority- (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (ii) the fee payable under sub-section (1) of section 6;
- (iii) the fee payable under sub-section (1) of section 7; and
- (iv) any other matter which is required to be, or may be, prescribed

29. Laying of Rules- (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30. Power to remove difficulties - (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act. (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

31. Repeal- The Freedom of Information Act, 2002 is hereby repealed

THE FIRST SCHEDULE

[See sections 13 (3) and 16(3)]

Form of oath or affirmation to be made by the Chief Information Commissioner/the Information Commissioner/the State Chief Information Commissioner/the State Information Commissioner

"I,....., having been appointed Chief Information Commissioner /Information Commissioner / State Chief Information Commissioner / State Information Commissioner swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

THE SECOND SCHEDULE

[See section 24]

Intelligence and Security Organisation established by the Central Government

- 1) Intelligence Bureau.
- 2) Research and Analysis Wing of the Cabinet Secretariat.
- 3) Directorate of Revenue Intelligence.
- 4) Central Economic Intelligence Bureau.
- 5) Directorate of Enforcement.
- 6) Narcotics Control Bureau.
- 7) Aviation Research Centre.
- 8) Special Frontier Force of the Cabinet Secretariat.
- 9) Border Security Force.
- 10) Central Reserve Police Force.
- 11) Indo-Tibetan Border Police.
- 12) Central Industrial Security Force.
- 13) National Security Guards.
- 14) Assam Rifles.
- 15) Sashtra Seema Bal.
- 16) Directorate General of Income Tax(Investigation).
- 17) National Technical Research Organisation.
- 18) Financial Intelligence Unit, India.
- 19) Special Protection Group.
- 20) Defence Research and Development Organisation.
- 21) Border Road Development Board.
- 22) National Security Council Secretariat.
- 23) Central Bureau of Investigation.
- 24) National Investigation Agency.
- 25) National Intelligence Grid.
- 26) Strategic Forces Command.

ANNEXURE-III

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ENLIGHTENMENT TO PERFECTION

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COMBATING CORRUPTION IN INDIA THROUGH RIGHT TO INFORMATION: AN ANALYSIS

*Sanyukta Moitra*¹

I. Introduction

Corruption is a universal menace that ruins nations and cripples the administration of governance. In a democracy, every government servant is under an obligation to disclose information regarding the expenditure made by them on behalf of the taxpayers and the decisions taken by them for the welfare of the people. Absence of such accountability results in abuse of power leading to rampant corruption hindering the growth and development of the nation. Poor implementation of laws dealing with corruption is another hurdle in preventing such corrupt practices. The enforcement of the laws to a great extent lies with the bureaucrats who use them conveniently to their own advantage. Most of the civil servants work under political leaders and remain loyal to them till they are in power. This loyalty shifts with the shift in the ruling government leading to a never ending cycle of unbridled corruption.

This insidious plague called corruption is found in all countries – big and small, rich and poor undermining democracy and rule of law. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment.² Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development. Every year, since the passage of the United Nations Convention against Corruption on 31 October 2003, 9th December is observed as International Anti-Corruption Day to facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption. Transparency International, an international non-governmental organization that works against corruption has placed India in the 81st position in the global corruption perception index in 2017.³ It reflects India's dominant position as a corrupt nation. The existing governmental machinery across the states and central governments has not been able to

¹ Assistant Professor, Department of Law, University of North Bengal

² "United Nations Convention Against Corruption" *available at*: http://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf (last visited on December 10, 2017)

³ Available at <https://www.transparency.org/country/IND> (last visited on February 21, 2018)

inspire confidence among the people of India as far as eliminating corruption is concerned.⁴

In order to wriggle out the corruption that has been spreading in India like a disease, and to ensure a corruption-free society, umpteen attempts have been taken up by the government of India in the form of legislations and establishment of institutions to tackle the menace of corruption but little progress have been achieved in this sphere so far. The colonial legacy of secrecy in India has inspired the government officials to keep public, away from the affairs of the government restricting the progress of the nation. However, soon it was realised that corruption can be reduced to a great extent if there is greater transparency and accountability in governance. This can be effectively done if people have the knowledge of the information that concerns them and resist the practices of corruption ingrained in the system.

Therefore, an opportunity to the public to have access to information became the need of the hour. Subsequently, this initiative was taken up by the judiciary, civil society and the media that came forward and fought against corruption existing in the public administration. The efforts led by these institutions led to the enactment of the historical Right to Information Act, 2005. The Act has achieved tremendous support from all sections of the society since then. The present paper highlights the role of the Right to Information Act in preventing the menace of corruption ensuring transparency and accountability in the administration and suggests measures to tackle corrupt practices existing in India.

II. Overview of Corruption in India

The World Bank defines corruption as an act where public officials including both bureaucrats and politicians, violate formal rules of conduct in pursuit of their private benefit, whether for wealth in the form of bribes or for political advantage. Corruption has a disproportionate impact on the poor and most vulnerable, increasing costs and reducing access to services, including health, education and justice.⁵ Corruption in India not only poses a significant danger to the quality of governance; it also threatens in an accelerated manner the very foundation of India's democracy, rule of Law and statehood⁶

One of the factors that work as a major hurdle in tackling corruption today is the existence of colonial immunities and privileges for the bureaucracy. Another important factor that validates this immunity is the

⁴ C.Raj Kumar, *Corruption and Human Rights in India*, 163 (Oxford University Press 2011)

⁵ Combating Corruption, available at: www.worldbank.org/en/topic/governance/rief/anti-corruption (last visited on December 30 2017)

⁶ *Id* at 4

archaic laws that still hinder transparency and accountability from the bureaucrats. In India, corruption is present in almost all departments be it politics, judiciary, media, police administration. The chief causes that encourage corruption include lack of Information, lack of transparency and accountability, inadequate government control, misuse of power by politicians and irresponsible attitude of citizens.

Dispensing MP and MLA funds at the sweet will of the politicians is a common phenomenon in India. In cities and villages throughout India the Municipal and Panchayat officials, elected politicians, judicial officers, real estate developers and law enforcement officials, acquire, develop and sell land in illegal ways, Many state-funded construction activities in India, such as road building are dominated by construction mafias which are usually groups of corrupt public works officials, materials suppliers, construction contractors and also politicians. In government hospitals, corruption is associated with non-availability of medicines, duplicate medicines, bribing for hospital beds and consultation with doctors and availing diagnostic services. Corruption is also rampant in the public distribution system. The Judiciary is also not spared as we often hear judges of the lower courts taking bribes and are guilty of acquiring disproportionate assets. The higher Judiciary also has not been transparent in its appointment procedure and disclosure of Assets and liabilities. The police atrocities also are a common aspect of corruption where the innocent people are often tortured to save influential and wealthy offenders. The chief economic consequences of corruption are the loss to the exchequer, an unhealthy climate for investment and increase in the cost of government-subsidised services.⁷

III. International Perspective on Corruption

Corruption is a global phenomenon and with the emergence of the multinational businesses including international banking and finances carried out among the states, the frequent transnational crime effecting the states and the almost free movement of people and information from one state to the other necessitates international moves against corruption. The major treaties that address corruption are discussed below:

(i) Inter – American Convention against Corruption

This was the first Convention that addressed the question of Corruption. Adopted on 29 March, 1966 by the member countries of the Organisation of American States, the Convention promotes the States Parties to prevent, detect, punish and eradicate corruption.⁸ In addition it also facilitates and regulates cooperation among the States Parties to ensure the

⁷ Farzana Begam, '*Right to Information in Developing World*', 125 (2010)

⁸ Available at: www.oas.org/en/sla/dil/inter_american_treaties_B-58_against_Corruption.asp (last visited on January 16, 2018)

effectiveness of measures and actions to prevent such practices in the performance of public functions and acts of corruption specifically related to such performances.⁹

(ii) The OECD Anti- Bribery Convention

The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on 17 December 1997 and came into force on 15 February 1999 establishes legally binding standards to criminalise bribery of foreign officials in international business transactions by effective, proportionate and dissuasive criminal sanctions. The Convention further establishes a monitoring mechanism to ensure that obligations under the Convention are carried out.¹⁰

(iii) The African Union Convention on Preventing and Combating Corruption (AUCC)

The Convention was adopted in July 11 2003 and came into force in 2005. It was primarily meant to fight political corruption on the African continent. It aims to eradicate corruption in both the public and private sector.¹¹ It requires the signatories to establish, maintain and strengthen independent, national anti-corruption authorities or agencies to fight against corruption.¹²

(iv) The United Nations Convention against Corruption

The United Nations Convention against Corruption that came into force on 14 December 2005 with over 140 parties to it is the global agreement among countries to fight corruption. It obliges the States to prevent and criminalise different corrupt practices, promote international cooperation, cooperate for the recovery of stolen assets and enhance technical assistance and information exchange.¹³ The Convention addresses both the public and private spheres and provides a set of comprehensive agreed upon obligations and provisions to criminalise corruption and enhance transparency and accountability. In order to monitor the progress in implementation of the Convention, the Member States have agreed to conduct “peer review mechanisms” among themselves, for which UNODC acts as a Secretariat.¹⁴ It

⁹ *Ibid.*

¹⁰ Available at: www.oecd.org/corruption/oecdantibriberyconvention.htm (last visited on January 16, 2018)

¹¹ Available at: <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption> (last visited on 16 January, 2018)

¹² *ibid*

¹³ Available at <https://www.unodc.org/unodc/en/treaties/CAC/> (last visited on 21 January. 2018)

¹⁴ Government Ratifies Two UN Conventions Related to Transnational Organized Crime and Corruption, *available at*: <https://www.unodc.org/southasia/frontpage/2011/may/indian-govt-ratifies-two-un-conventions.html> (last visited September 24, 2017)

makes it mandatory for countries to criminalise corruption offences like bribery, misappropriation, embezzlement and money laundering.

I. Position in India

Part III and IV of the Constitution of India encompass right to dignity, equality and freedom and also socio-economic rights to all individuals. It is the obligation of the state to respect, promote and fulfil the constitutional principles. This requires the state to take positive steps to ensure transparency of all public procurement processes including through the investigation of allegations of corruption or improper conduct in procurement processes. The government of India has enacted various laws criminalising corruption and has established various institutions to contain corruption at all levels.

India has also welcomed the UNCAC, which provides for international co-operation and mutual legal assistance in investigating cases of corruption and recovery of assets. India signed the UNCAC in December 2005. By signing the Convention India has reiterated its resolve to strengthen international co-operation, cooperate for the recovery of stolen assets and enhance technical assistance and information exchange as envisaged in the Convention.¹⁵

IV.I. Existing Laws to Combat Corruption in India

The British government included various provisions in their laws to prevent corruption and certain provisions still remain operative as laws in force post independence. In addition to some of the pre-constitutional laws dealing with corruption, the government of India has enacted various laws to prevent corruption in India which is enumerated below:

(i) The Indian Penal Code, 1860

The Indian Penal Code criminalises corrupt practices that includes gratification in order to influence public servant, offences relating to cheating and dishonestly inducing delivery of property¹⁶ and criminal breach of trust¹⁷. The Act defines “public servant” as a government employee, officers in the military, navy or air force; police, judges, officers of Court of Justice and any local authority established by a central or state Act.¹⁸

(ii) The Benami Transactions (Prohibition) Act, 1988

The Benami Transactions (Prohibition) Amendment Act, 2016 amends The Benami Transactions (Prohibition) Act, 1988 making it more

¹⁵ India: Government ratifies two UN Conventions related to transnational organized crime and corruption, *available at*: <https://www.undoc.org/southasia/frontpage/2011/may/Indian-govt-ratifies-two-un-conventions.html>(last visited on December 5, 2018)

¹⁶ Indian Penal Code, Sec-169

¹⁷ *Id.* Sec.- 409

¹⁸ *Id.* Sec.-21

stringent. The amended Act prohibits benami transactions¹⁹ and empowers the prescribed authority to provisionally attach *benami* properties which can eventually be confiscated. The Act further imposes a punishment with rigorous imprisonment for a term not less than one year but which may extend to 7 years and shall also a fine which may extend to 25% of the fair market value of the property if a person is found guilty of offence of *benami* transaction by the competent court.

(iii) The Prevention of Corruption Act, 1988

The Prevention of Corruption Act, 1988 is the main law for dealing with offences pertaining to corruption in India. It was enacted to consolidate different anti-corruption provisions from various pieces of legislation under one umbrella and to make them more effective. The Act widened the scope of the definition of a “public servant”; enhanced penalties provided for offences in earlier laws; incorporated the provisions of freezing of suspected property during the trial; mandated trial on a day-to-day basis prohibited the grant of stay on trial etc.

(iv) The Prevention of Money Laundering Act, 2002

Many public servants are able to hold their ill-gotten wealth in foreign countries, which they subsequently transfer to their homeland through money laundering, disguising them as funds, apparently from a legal source. This Act empowers the Directorate of Enforcement, India, and Financial Intelligence Unit, India, both agencies of the Government of India, to investigate and prosecute such persons under the said Act. The punishment for committing the offence is rigorous imprisonment for three years which may extend to seven years and also be liable to fine.²⁰

(v) The Competition Act 2002

The Competition Act ensures competitiveness in market and includes both the public and private sector. It provides for the establishment of Competition Commission responsible for amongst other things, the investigation of prohibited practices including corruption.

(vi) The Companies Act, 2013

The Companies Act, 2013 lays down provisions to prevent corruption and fraud in the corporate sector including the duty of statutory auditors to disclose any instances of fraud committed by company employees. It imposes penalties for fraud offences and makes provision for establishment of

¹⁹ According to Sec-2(9) of the Benami Transactions (Prohibition) Act, 1988 *benami* transaction means any transaction in which a property is held by or transferred to a person, but has been provided for or paid by another person who does not pay for the property except when a person purchases property in his wife’s or unmarried daughter’s name.

²⁰ The Prevention of Money laundering Act, 2002, Sec-4

vigilance mechanisms and audit committees. The Act has increased the responsibilities of independent directors.

(vii) Whistleblowers' Protection Act, 2011

Whistle Blower is a person who exposes information or activity that is deemed illegal and plays a major role in the fight against corruption detecting passive bribery, misuse of public funds, waste or fraud. The Whistle Blowers Protection Act, 2011 provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrongdoing in government bodies, projects and offices.

(viii) The Lokpal and Lokayuktas Act 2013

The Act provides for establishment of offices of the nodal ombudsman for the Central and state governments, Lokpal and Lokayuktas respectively to investigate and prosecute cases of corruption in the public sector and also has the power of superintendence over the Central Bureau of Investigation.

(iv) The Right to Information Act, 2005

The Right to Information Act aims at ensuring efficiency, transparency and accountability in public life. This Act requires all public authorities, except the ones that handle work relating to national security, to publish all information about their functioning at regular intervals through various means of communication, including the Internet. The Act empowers the citizens to seek any information from the concerned public authority just by filing an application at almost no cost. The public authority has to reply to the application compulsorily within 30 days. If the information sought is denied, the applicant has a right to agitate further before the appellate authorities under this Act. This has been considered as a revolutionary step towards the eradication of corruption from public life. The present paper focuses mainly on the Right to Information Act, 2005 as a tool to eliminate the malaise of corruption existing deep in the governance and increase administrative efficiency.

V. Emergence of Right to Information Act, 2005 as a Tool to Curb Corruption

India is the 48th country to implement a law that guarantees right to information. The enactment of such a revolutionary Act is no less than a miracle which has been made possible by the civil society groups working selflessly and creating pressure on the government to initiate the passage of the Act. The initial demand for such a right to access information began with the organization of the rural poor, "Mazdoor Kisan Shakti Sangathan (MKSS)" in the state of Rajasthan. The organization for the first time demanded information relating to government's development projects for the uplift of the dispossessed masses and demanding accountability of the policy makers and implementing agencies. Their long struggle finally led to the

political acceptance of the people's right to information. Between 1997 and 2004 nine states of India had their own legislation on the right to information. These legislations in the states could not bring the expected reforms as the acts were overprotective of the bureaucracy, imposed high fees for application and photocopying and provided no penalty for officials refusing to divulge information or delaying beyond stipulated time without any justification. A need was felt for a central legislation to make this right a reality.

In response to the nationwide demand for the right to information, the Parliament led by the NDA government enacted the Freedom of Information Act in 2002, with the objective of making government open, transparent, responsive and accountable to the people. The Freedom of Information Act, 2002 was never enforced because its rules were not framed, nor was its enforcement date notified as it suffered from some inherent, substantive and procedural problems and was repealed by the new UPA government which came into office in 2004 and a new legislation was passed in the name of Right to Information Act, 2005 which gave the citizens a weapon to get rid of the secrecy regime that subsisted for the last 55 years.

Under the Act, every citizen is statutorily empowered to put questions and demand answers about governance and development issues that affect their lives. The Act ensured greater transparency and promised to reduce corruption. In India, Right to know and receive information was already there and had emanated from the right of freedom of speech and expression guaranteed by of the Constitution of India²¹. The Right to Information was judicially recognized by the Supreme Court's observation in the *U.P. Vs. Raj Narain*²², and *S.P Gupta Vs. Union of India*²³ in which by a generous interpretation of the guarantee of freedom of speech and expression the Supreme Court elevated the Right to know and right to information to the status of a fundamental right. Also through its liberal view of *locus standi*, the Supreme Court has facilitated public participation in the judicial process.²⁴ However, due to lack of awareness made it difficult for the common people to approach the courts for accessing information. This hindrance was removed by the enactment of the Right to Information Act, 2005 that enabled every citizen to seek information from the public officials by introducing a practical and concrete mechanism to access all kinds of information barring few exceptions enumerated under the Act.

V.I. Significant Features of the Right to Information Act, 2005

The Right to Information Act, 2005 provides for setting out a practical regime of right to information for citizens to secure access to information

²¹ Art.19 (1) (a) Constitution of India

²² (1975) 4 SCC 428

²³ AIR 1982 SC 149

²⁴ S.P.Sathe, '*Right to Information*' 57 (Lexis Nexis Butterworths 2006)

under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions.²⁵ The Preamble reflects that the right promises to set out a goal to ensure its citizens to have access to the information and to primarily make arrangements to secure access to information under the control of public authorities excluding the private bodies which will promote transparency and accountability in the public administration.

A citizen under the Act means only natural and not juristic persons like firms, companies or other corporate bodies but if any RTI application is filed on behalf of an organization, it is accepted as a personal application on the behalf of the name of the person mentioned in the RTI application. The Act defines “information” as any material in the form of records, documents, memos and even press release, log books etc. and those in electronic form like e-mails etc. The word ‘record’ embraces any document, microfilm and microfiche, while the reproduction of images embedded in such material in microfilm and computer-based reproduction are also included. Under the Act, the citizen is empowered to inspect such information in forms of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device. The Act comprehensively covers a wide spectrum of bodies as a ‘Public Authority’ like the departments and undertakings of Central governments and state governments, Panchayati Raj institutions, urban local bodies, other bodies established, constituted, owned, controlled or substantially financed by the government including governmental organizations. This may also include private schools, hospitals and other commercial institutions that receive subsidies or concessions in taxes from the government.

In addition to these, the act also covers private sector since the citizens can obtain all information indirectly from the government offices who are authorized to control or monitor them, or connected in any way under any other laws for the time being in force. So, in this way indirectly citizen can access the information related to the private bodies from the government offices that are authorized to control or monitor them or connected in any way under any other laws for the time being in force.

The Act ensures to eradicate any type of corruption in Public Authority by providing a mandatory obligation to the Public Authority to disseminate the information sought by the Indian citizen within a certain time period with a nominal fee.²⁶ It also imposes the Public Authority to maintain and provide access to all the information by applying *suo motu* action. So, due

²⁵ Preamble of the Right to Information Act, 2005

²⁶ The Right to Information Act, 2005, Sec-4

to the mandatory dissemination of information in the accessible format definitely, transparency and accountability can be established because that information not only helps to aware the people as well as could admit as evidence in any legal proceeding.

Every Public Authority shall designate as many officers as Public Information Officers (PIOs) or Assistant Public Information Officers (APIOs) in all administrative units or offices under it as may be necessary to provide information to persons requesting the same. If the required information is not provided to the applicant within 30 days, the same will be construed as deemed refusal under the Act and the applicant can prefer an appeal against it to the Appellate Authority who is a senior official of the same department. Furthermore, the Act also mandates the constitution of Information Commissioners and State Information Commissioners (SICs), to inquire into complaints, hear second appeals, oversee and guide the implementation of the Act. It also prescribes penalties on public information officer if found guilty of the violation of the Act.

Under the Act, the first party is the applicant for information; the second party is the public authority of which the Public Information Officer is the officer; the third party is the person to whom the information relates and which information is available with the second party. If the third party claims that the information as confidential, its claim whether confidentiality overweighs the public interest shall be examined and if the PIO decides that the public interest overweighs the purpose of confidentiality he should disclose the information to the applicant.

Though the Act gives us the right to access a wide variety of information, section 8 lays deals down with certain categories of information which are exempted from disclosure if such disclosure prejudicially affect the sovereignty and integrity of India, security, strategic, scientific or economic interests of the state, relation with foreign state or lead to incitement of an offence. Publication of such information is expressly forbidden by the court of law or tribunal and disclosure may constitute contempt of court. Also exempt is information received in confidence from foreign government or information, the disclosure of which would impede the process of investigation or apprehension or prosecution of offenders, or would endanger the life or physical safety of any person or identity, the source of information or assistance given in confidence for law enforcement or security purposes.

However, these exemptions are not absolute as information pertaining to the allegations of corruption and human rights violations shall not be excluded. Information on such cases shall only be provided after the approval of the central information commission and within 45 days from the date of the receipt of the request. Section 24 of the Act exempts certain organizations from the provisions of the Act. The Act through clearly lays down that any

information which cannot be denied to a Parliament or a State Legislature cannot be denied to us. These exceptions, on the other hand, have a shelf life and will not be exempt forever. The Act allows us to request information about any event, occurrence or matter after 20 years, even though at one time or another it may have been covered by one or more exemptions. The Act bars jurisdiction of all courts including High Courts to the extent of its original or appellate jurisdiction to entertain any suit, application or other proceedings in respect of any order made under this Act.

V. II. The Journey so far

The Right to Information Act had raised high hopes that it would reduce corruption to a considerable extent. There is no denying of the fact that the Act has brought in successful results in the matters of civic action such as roads, sanitation, streetlights and information on utilization of MP and MLA funds. It has also highlighted scams worth millions, to ensuring attendance of sweepers in cities to identifying lost postal orders. Today getting access to answer scripts, selection and recruitment procedures are only made possible through this Act. The establishment of Central Information Commission providing for an institutional framework ensuring transparency is engaged in the implementation of the right to information. However, its misuse has also not gone unnoticed. There are instances where the provisions of the Act are misused as information is demanded for petty matters which halts the functioning of government or causes wastage of time and money. The veil of secrecy still exists in the governance of the country. The Official Secrets Act, 1923 has not been formally repealed, although the Right to Information Act has an overriding effect on the Act. The Evidence Act, 1872, also gives unbridled power to the bureaucrats to continue with the disclosure policy.

Government to carry out its constitutional obligation of promoting and protecting the socio-economic interest of every citizen, implements development projects, poverty alleviation programmes and various welfare schemes from time to time. Information relating to these programmes are not available to the citizens. Lack of accountability and transparency in such policies leaves doubts in the minds of the public. Even when we have structured Panchayati Raj Institutions (PRIs) and the Urban Local Bodies (ULBs) to carry out these functions, most of the times these institutions are also bypassed. In the rural areas, even the Gram Panchayat has no access to such information. Denial of such information results in criticism of the government and encourages corrupt activities.

The Act is still a tool in the hands of bureaucrats as it gives an umbrella protection to the government from disclosure under the garb of exemption. There are ambiguities in the definition of certain terms that can be easily misused by the authorities. Moreover, the right only makes the

information accessible but the citizens do not have the power to question the authorities.

VI. Summing up

Corruption has reached such an alarming proportion in India that it has undermined the foundation of democratic governance. In spite of the several legislations to combat corruption, this menace has outnumbered other crimes. It was felt that with the enactment of Right to Information Act, corruption could be wiped out from the country but the reality is that corruption may have reduced in the lower levels of administration to a certain extent but it largely exists at the higher level. It is true that, after the passage of the Act, many citizens got that were long overdue but mere giving the right to the public to secure information would not bring in the change in combating corruption.

A citizen by making an application accompanied by a nominal payment in the concerned department secures the right to get the information he requires. It is only the information that he can expect and nothing beyond that. The information if denied can be taken to his senior official within the department in the form of an appeal. Most of the time a common man is ignorant about this provision and the officer takes advantage of his ignorance.

Those who approach the First Appellate Authority, if dissatisfied with the decision, can file a second appeal with the Information Commission at the Central or State level. Due to lack of awareness, the citizens often do not approach the Appellate authorities when the information is not disclosed within the time frame. This ignorance encourages the erring official to indulge in corrupt activities without any fear of being caught.

It is the duty of the government to raise awareness about the legislation and ensure that all of its affairs are conducted in a manner that promotes transparency, accountability and integrity in public administration. Criminal law and public policy approaches to the problem dealing with corruption have been met with mixed results. The government often turns deaf ears to RTI applications that have unearthed incidences related to corruption.

The right to information in India needs to be integrated with the right to transparency²⁷ and the right to corruption-free governance. This approach integrated into handling corruption will ensure that the political and bureaucratic machinery in India is accountable to its people. The Central Information Commission needs to assume a leadership role so that, with a view to promoting transparency, whatever information is available with

²⁷ See Moshe Maor, 'Feeling the Heat? Anti-corruption Mechanisms in Comparative Perspective' 17 *Governance* 1(2004)

governmental bodies, is obtained and made public.²⁸ Empowerment of the citizens, active involvement of the media in exposing the corrupt actions of politicians and bureaucrats can make a huge difference. The judiciary should be vigilant and punish acts of corruption within a stipulated timeframe. Also the accountability mechanism has to be extended for the promotion of good governance with the active support and cooperation from the government, civil society and media accountability. In addition to this, the following measures should be adopted:

(i) Government should set up minimum standards of proactive disclosure of information and promote better and more standardized distribution of formally published information to give effect to the provisions of the Act enabling the citizens to have access to all government publications. This will reduce the tendency of corrupt activities and create fear in the minds of the erring officials.

(ii) Monitoring and reporting on the performance of public authorities and offices, providing specialized training to officials, issuing clear guidelines on how to implement information management can also make the officials more responsible and reduce corrupt practices.

(iii) The whistleblowers risk their lives to expose illegal activities and providing them with proper protection is the duty of the state. Despite having a specific legislation, the whistleblowers are not given adequate protection and are often subjected to retaliation and victimization. The government should adopt new measures to give them better protection and encouragement so that they fearlessly come forward and blow whistles in their respective departments.

(iv) The erring officials who refuse information to public without any reason under the Right to Information Act is imposed penalty of Rs. 250 per day which may extend to Rs.25000.²⁹ If there is punishment in the Act, there should have been a provision of rewarding the public official on the basis of their performance every year in answering to the queries of the citizens.

Right to Information if properly implemented is likely to reduce corruption and increase administrative efficiency. It provides every citizen with the enforceable right to question, examine audit, review and assess government acts and decisions to ensure that these are consistent with the principles of public interest, probity and justice.³⁰ It is the first step in checking governmental corruption and can be used as a more powerful tool

²⁸ *Supra* note 3

²⁹ Right to Information Act, 2005, Sec-20

³⁰ Rajiv S.Dhaka, '*Right to information Act and Good Governance: Operational Problems and Road ahead*' 516 Indian Journal of Public Administration (Vol LV, no.3 July-Sep 2009)

for formulating the right to corruption-free governance. It has been more than a decade now since the law has been passed and therefore concerted efforts by both the citizens and the government can certainly help eliminate corruption from India.